

ZB# 95-22

**John Daskalis
(H.R. & C of NY, Inc.)**

4-1-67

Helim.

Oct. 24, 1994

① Pay from owner (Mr. Cho)
4 Days

Check

② Copy of lease

③ Photos - here

④ Fee - \$150.00

Letter out \$150.00 + \$175

Notice to Quit - \$150.00

~~Public Hearing~~

~~Notice to Quit~~

Preliminary:

November 27, 1995

Notice to Quit 1/28/95.

Public Hearing:

December 11, 1995

Wall Signs

Area Variance

approved.

Free standing sign
denied too high large

#94-22-2 - Daskalis, John
95-22-2 Sign - HRC (owner)

4-1-12-67

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

15201

1/2 1995

Received of Positive Business Investment Group \$ 150.00

One Hundred Fifty 10 DOLLARS
100

For ZBA 95-22 App. Fee

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>CR 1035</u>		<u>150.00</u>

By Dorothy Hansen
Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Daskalis, John

FILE # 95-22

RESIDENTIAL: \$ 50.00
INTERPRETATION: \$150.00

COMMERCIAL; \$150.00

AREA ☒

USE ☐

APPLICATION FOR VARIANCE FEE \$ 150.00 paid
#1035

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00 paid
#1033

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE 11/27/95 - 6 pages \$ 27.00
2ND PRELIM. MEETING - PER PAGE 12/11/95 - 10 pages \$ 45.00
3RD PRELIM. MEETING - PER PAGE \$
PUBLIC HEARING - PER PAGE \$
PUBLIC HEARING (CONT'D) PER PAGE \$
TOTAL \$ 72.00

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: . 11/27/95 - 35.00 \$ 35.00
2ND PRELIM. . . . 12/11/95 - 35.00 \$ 35.00
3RD PRELIM. \$
PUBLIC HEARING \$
PUBLIC HEARING \$
TOTAL \$ 70.00

MISC. CHARGES:

Postage - 10 letters \$ 3.20
TOTAL \$ 145.20

LESS ESCROW DEPOSIT . . . \$ 500.00
(ADDL. CHARGES DUE) . . . \$
REFUND DUE TO APPLICANT . \$ 354.80

POSITIVE BUSINESS
INVESTMENT GROUP

6 RONDACK RD.
MIDDLETOWN, NY 10940

1035



John Daskalis
Director of Operations



4 SOUTH STREET
MIDDLETOWN, NY 10940

PAY
TO THE
ORDER OF

12/11
Town of New Windsor

19 95-50-7077/2219

\$150.00

One Hundred Fifty & 00/100

DOLLARS

JOHN DASKALIS - PRESIDENT

BA # 95-22

001035 221970773 077 3105239

1033

POSITIVE BUSINESS
INVESTMENT GROUP6 RONDACK RD.
MIDDLETOWN, NY 10940John Daskalis
Director of OperationsPAY
TO THE
ORDER OF2/5
Town of New Windsor

19 96. 50-7077/2219

\$ 500.00

Five Hundred & 00/100

DOLLARS

4 SOUTH STREET
MIDDLETOWN, NY 10940

A handwritten signature of John Daskalis, written in dark ink, over a horizontal line.

JOHN DASKALIS - PRESIDENT

#95-22 001033 221970773 077 3105239

-----x
In the Matter of the Application of

H.R. & C. OF NEW YORK, INC. and
POSITIVE BUSINESS INVESTMENT GROUP,

#95-22.
-----x

MEMORANDUM OF
DECISION GRANTING
IN PART/AREA
VARIANCES FOR SIGN

WHEREAS, H.R. & C. OF NEW YORK, INC., a corporation having an office at 845 Union Avenue, New Windsor, N. Y. 12553, as Owner, and POSITIVE BUSINESS INVESTMENT GROUP CORP., a corporation having an office at 6 Rondack Road, Middletown, N. Y. 10940, as Lessee, have made an application before the Zoning Board of Appeals for 240 s.f. sign area and 20 ft. sign height variance for a free-standing sign, plus 4.5 ft. x 0 ft. and 1.5 ft. x 0 ft. variances for two wall signs for proposed "Johnny D's" Diner to be located on front portion of 845 Union Avenue in a C zone; and

WHEREAS, a public hearing was held on the 11th day of January, 1996, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by John Daskalis and Victor Choe; and

WHEREAS, there was one spectator appearing at the public hearing; and

WHEREAS, the spectator spoke regarding his concerns for the escalation of signs in the area, but he stated that he was not objecting to the application before the Board; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance to its previously made decisions in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The subject premises is a currently vacant lot located in a C zone in the Town of New Windsor.

(b) The zone and surrounding neighborhood is commercial mixed with a use for the City of Newburgh.

(c) The applicant proposes to erect a diner and sign on the premises.

. . .

(d) The area is unique because it is in a commercial area on one side of the road but the other side is entirely taken up with a watershed for the City of Newburgh.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. With respect to the free-standing sign:

(a) The requested variances will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties by being too high.

(b) There is another feasible method available to applicant which can be achieved by merely lowering the height of the sign.

(c) The variance created is substantial.

(d) The requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district. (See #1).

(e) The difficulty the applicant faces in conforming to the bulk regulations is self-created and should not be granted.

(f) It is the finding of this Board that the detriment to the health, safety and welfare of the neighborhood or community outweighs the benefit to the applicant.

(g) It is the further finding of this Board that the requested sign variance is inappropriate.

(h) The interests of justice will not be served by allowing the granting of the requested sign height variance.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. With respect to the two facade signs:

(a) The requested area variances for two facade signs will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

(b) There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

(c) The variances created are substantial but should nevertheless be granted because if granted they will not make the building inconsistent with the neighborhood and given the nature of the neighborhood, it is necessary for adequate identification of this business.

(d) The requested variances will not have an adverse

effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

(e) The difficulty the applicant faces in conforming to the bulk regulations is self-created but should be granted because granting them will enhance the value of the property and for the reason specified in paragraph 3, supra.

(f) It is the finding of this Board that the benefit to the applicant, if the requested facade sign area variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

(g) It is the further finding of this Board that the requested facade sign area variances are the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(h) The interests of justice will be served by allowing the granting of the requested facade sign area variances.

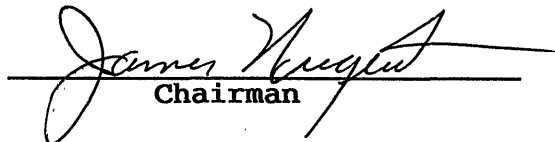
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT 4.5 ft. x 0 ft. and 1.5 ft. x 0 ft. sign area variances for two facade signs, and DENY a request for a 240 s.f. sign area and 20 ft. sign height variance for a free-standing sign for proposed "Johnny D's" Diner to be located on front portion of 845 Union Avenue in a C zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: March 11, 1996.


Chairman

(ZBA DISK#13-030596.JDD)

Date 12/22/95 19

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Syracuse Dr
New Windsor NY 12553 DR

DATE

CLAIMED ALLOWED

2/11/95	Zoning Board Meeting	75 00		
	Misc. - 2			
	Rothstein - 8			
	Digeroni - 4			
	Denhoff - 4			
	Rhodes - 19			
	H.R. + C - 10 = \$45.00			
	Rosenbaum			
	56 pgs	252 00		
		327 00		

H.R.&C/POSITIVE BUSINESS INVESTMENT GROUP

MR. NUGENT: Request for 240 square foot sign area and 20 foot sign height for free-standing sign, plus 4.5 ft. x 0 ft. and 1.5 ft. x 0 ft. variances for two wall signs for proposed "Johnny D's" Diner to be located on front portion of 845 Union Avenue in a C zone.

Mr. John Daskalis and Mr. Victor Cho appeared before the board for this proposal.

MR. NUGENT: Is there anyone here for this application? Okay, sir?

MR. DASKALIS: My name is John Daskalis, this is Mr. Victor Cho, I am the owner of the diner, he's the owner of the Days Inn and the property. We're proposing a variance for a 240 feet for one of the signs that would be a freestanding sign and that will be this one and a second sign which is going to be attached in the front of the building, the top one which is this one and that we're requesting a 4 1/2 feet by 0 variance that would be this sign and sign number 3 we're requesting 1 1/2 feet variance, will be this one that says Johnny D's, will be attached on the building and also we're requesting a 20 foot variance for the height of sign number one.

MR. NUGENT: I think one of the fellas asked you last time what is the difference in height of this one compared to the Days Inn sign was going to be?

MR. DASKALIS: It is almost the same height.

MR. TORLEY: Days Inn sign is not legal, is it?

MS. BARNHART: Yes, we do.

MR. TORLEY: They did get a variance for the height?

MS. BARNHART: Yes.

MR. NUGENT: Few years back but they got it. Any questions?

MR. KANE: None.

MR. TORLEY: No.

MR. NUGENT: I'll open it up to the audience. If you have a comment, state your name, please.

MR. DAVE NUNNELLY: Dave Dunnyelly, 26 Liner Road. Where is the freestanding sign going to be located?

MR. DASKALIS: It will be located just maybe five feet towards the highway where the sign of Days Inn is right now, that sign will be moved on the other side of the road on the other side of the driveway.

MR. NUNNELLY: The area presents a very unique situation. Driving up 300, you have got a water shed on one side and you have got a commercial area on the other side. It's like if you look one way, it's beautiful. If you look the other way, you have got all commercial establishments. I want to wish you good luck in your business venture. And I look forward to your moving in. The problem that I want to avoid creating something like a Las Vegas atmosphere where every business that moves in is going to request a bigger and bigger sign. What you're going to do, the next one is going to have lights, the next one's going to have motion, et cetera, the next one's going to have a 25 foot variance. If I understand correctly, there's a possibility that the highway department will eventually move out and another commercial establishment will move into that area, whether it's another eatery or whatever, Bantas Steak and Stein sign which is already in the restaurant business is located just adjacent to that property, and I looked at their sign on the way over, it's approximately, and I don't know the exact dimensions, I would say 4 to 6 feet by 7 to 8 feet and it would be, and I don't know what the height is, I'm going to guesstimate, it's about 12 foot high. This is going to draw that sign and you know you're probably in competition with them, maybe you can serve different food. Mainly I'd like to drive down the highway without seeing like frontierland here we have just gone through the election area, November 7 and I was particularly, I have a residence in Beacon

and we have already addressed the signs there where signs were in everybody's front yard. There's signs on every telephone pole so I am particularly annoyed with signs, excuse me, but now it's, what I want to avoid is your sign's going to be bigger. The next guy's going to be bigger than you, the next guy's going to be bigger than them. Pretty soon, we're going to have billboard signs, not that it would ever pass the board but that is just really my main comment. I have no real objection to it. If you, and I'm sure that everybody drives that area, it's a very, you know, whether you're going home or going to a business or going to Wal-Mart, as you drive in either direction going passed there new establishment, there's a good deal of visibility so that as opposed to when you drive to Steak and Stein, their sign sits further down the highway so that you can see it even as you go passed the woods, you don't really see the Steak and Stein until you actually go passed it practically where they sit in a little depression. And if you are coming from the like where Lloyds used to be, they are going to be very visible. And if you are coming from the Mobil Station from 207 coming that way, they are going to be also very visible because it's all the woods are all cut back in that area, there's a good possibility that the freestanding sign is unnecessary and to tell you the truth, even with the Days Inn sign being 20 foot in the air, you're saying I hardly see it and most people are paying attention to traffic, there's really no reason for a sign way up in the air. Maybe something a little further down, maybe something next to the highway so it doesn't block the view but I just, I want to avoid having the escalating sign war. That is the only statement I really want to say.

MR. LANGANKE: Where do you live, sir?

MR. NUNNELLY: I live on Liner Road which is actually directly behind Steak and Stein. Every time their alarm goes off, I call the police department. So I won't be adversely affected by the sign as far as visual. Actually, I could see it from my house and when I do, I can see the lake and I do look over Bantas Steak and Stein sign is to see the reservoir, you know, so I see their roof. I don't see their sign. I do, I

do see the Days Inn sign and there's some light pollution, I mean I'm the only private house that is there besides the one that is way down the street so the only thing I have is there's light pollution from the motel at this moment, you know, adding I don't know what this sign is, if it's lighted or not lighted, I don't think that was addressed, site lighted.

MR. DASKALIS: It is lighted.

MR. NUNNELLY: That is going to add to the light pollution, not that I am going to be particularly annoyed with it but--

MR. TORLEY: Would the applicant address why given the sight lines that you have to have a 20 foot, a sign 20 feet taller than the code?

MR. DASKALIS: If you drive from the light coming towards New Windsor, towards Newburgh from the light of where you turn left towards, you don't see the property, you don't see any of it until you get to the hill and going 40 miles an hour, unless you saw it from farther down, you don't have time to stop and go to where you turn and make a left to go in and the same way from Wal-Mart, you don't see it from there unless you turn.

MR. NUNNELLY: I disagree.

MR. TORLEY: You can see very good from quite a ways away.

MR. DASKALIS: You don't see the diner, you don't see a small sign, only you can see the Days Inn sign from far away. You don't see the diner.

MR. TORLEY: The diner's not there yet. We just went through after tremendous amount of debate and work by the town board, on redoing our sign code, okay, 15 feet and I just would like you to say why if the code was 30 years old, more reason why things have changed, but this sign ordinance was passed last year, why given what the town board has decided that is what we should have in the town, why we should give you an almost

double the height in an area that really doesn't look like it needs that much of a height. If you are allowed 15 feet, even 20 feet, maybe five feet difference that would be reasonable but one of our charges is to grant the smallest feasible variances and from 15 feet to 35 feet is not a small variance.

MR. DASKALIS: Where the sign is going is the deepest spot of the--

MR. TORLEY: It's where the Days Inn sign is now.

MR. DASKALIS: Right.

MR. NUNNELLY: Bantas Steak and Stein sign, you have seen that, right, that is not a very very large sign and it's not, it's not illuminated, it's indirectly illuminated, their parking lot is packed, the reason they are packed is because they serve good food and it's by word of mouth, they have been there a long time, your establishment, I think the people are going to go in the parking lot because you serve good food. You might need that space to put extra parking spaces for the people that you serve and maybe even I understand your concept, really I know you want to do the whole package deal, you might even save some money but not putting that sign up, that is absolutely beautiful, the front of your establishment is absolutely beautiful and it presents a face that you can see going in each direction and the only other thing how far is it set back of the building cause it can't be that far. How far does that set back from the, from Route 300?

MR. DASKALIS: I'm not sure.

MR. NUNNELLY: The face of the building itself?

MR. DASKALIS: I'm not sure exactly.

MR. NUNNELLY: Do you have a site plan because that in effect that is heck of a sign it really is and the building is gorgeous.

MR. NUGENT: That is part of the variance too.

MR. NUNNELLY: I realize that, oh, I'm not objecting to that part at all and I'm not really objecting to the, to this sign. I'm just, I just want to put a little red flag that we don't keep escalating.

MR. TORLEY: I think it's a site plan development that he wants to put in there looking forward to get in there and seeing what the food's like but the one sign is what bothers me, it's a huge sign and I don't think it's needed.

MR. KANE: I don't think we're here to debate it, he's here to get information and make a decision, everybody has their opinion.

MR. LANGANKE: You say that the Days Inn sign received a variance?

MR. NUGENT: Yes.

MR. LANGANKE: We're sure of that? When was that done?

MR. NUGENT: Four or five years ago.

MS. BARNHART: It was another, it was the Diplomat. Then there was a restaurant up there on the hill.

MR. NUNNELLY: I really never remember, I have owned my property since '83, I don't remember ever receiving any kind of notice for a variance for that particular sign. It may have been prior to my owning the property but--

MS. BARNHART: Lot of people don't remember receiving notices but they do.

MR. TORLEY: Back then it would probably be certified too.

MR. NUNNELLY: To beautify the area, I think to rescind the other thing is what happens in America, once you give a privilege, you never take it away again, you know, if we could improve the property by taking the Days Inn sign down, that would serve a beautification process, too.

MR. LANGANKE: Maybe we should look in that, I think this is one of the issues that they were discussing in the community, approaches to the airport, different towns trying to develop signage along comparable ideas and not as the man said making a Las Vegas type approach.

MR. KANE: When we approach, Mr. Chairman, when we approach the vote, can we take each one of these variances separately?

MR. KRIEGER: Yes.

MR. NUGENT: Yes.

MR. NUGENT: Mr. Nunnelly, by the way, your house is in a C zone.

MR. NUNNELLY: Commercial.

MR. BABCOCK: Commercial.

MR. NUGENT: You live in a commercial zone.

MR. NUNNELLY: I am not opposed to having commercial properties around me, matter of fact, I may appear before you some time in the future so--

MR. NUGENT: Are there any further questions by the audience? I'll close the public hearing, open it back up to the board. If there's no questions, I'll accept a motion.

MR. TORLEY: I'd like to make a motion restricting just to the freestanding sign, I make a motion we grant the requested 20 foot sign height variance.

MR. KANE: Second it.

MR. TORLEY: I'm addressing just the freestanding sign.

MR. BABCOCK: Also the size.

MR. TORLEY: Sign area and 20 foot sign area for

freestanding sign.

MR. KANE: Second it.

ROLL CALL

MR. LANGANKE	NO
MR. KANE	NO
MR. TORLEY	NO
MR. NUGENT	NO
MR. REIS	NO

MR. REIS: What was that for now?

MR. NUGENT: 20 foot sign height and 240 square foot.

MR. KANE: Mr. Chairman, I make a motion that we approve the variance for the remaining two variances for the applicant, the two wall signs.

MR. NUGENT: Four foot five by zero and one foot five by zero.

MR. REIS: Second it.

ROLL CALL

MR. LANGANKE	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE
MR. REIS	AYE

MR. DASKALIS: I didn't understand.

MR. TORLEY: Everything is fine except the freestanding sign that you can't put up as you want to.

MR. DASKALIS: I can't have any freestanding sign?

MR. TORLEY: Not that big a sign. Mike can tell you what the code says you can have.

MR. NUGENT: You can have it 15 feet high, 64 square feet, that is the law.

MR. KANE: The building signs have passed, you have the variances on anything that is attached to the building. The freestanding sign you have to redo your idea with it, we didn't pass what was presented.

MR. CHO: So how high it should be now?

MR. BABCOCK: Fifteen feet.

MR. CHO: So, it's five foot difference?

MR. KANE: And the square footage didn't pass, you need to retake a look.

MR. TORLEY: It can be 15 foot, you asked to be 35 feet.

MR. DASKALIS: Excuse me, I didn't understand that.

MR. TORLEY: The sign can be 15 feet high, you asked for it to be 35 feet high.

MS. BARNHART: You're allowed 15 feet, John.

MR. DASKALIS: We need to have a sign that can be comparable to this building and if you only went a little sign in the front there, it would not match with the beauty and the size of the building we're putting up.

MR. TORLEY: Fifteen feet is pretty tall.

MR. DASKALIS: I'm not talking about the tall, but the whole size, no, we're going not only the size but we're shrinking down to a little sign that I am not sure I can even make, then one where I put my advertising for breakfast specials and stuff that would not be enough.

MR. KANE: What we have said was that we didn't agree with what you have presented at this point, that doesn't preclude from you coming back with a different idea that is a much smaller sign for that particular area that may work better in that particular neighborhood. But this particular sign we just feel is

too big at this point but you can go back and re-look at it and take a look at what's allowable and then only come back with another idea knowing that we feel that is much too big, doesn't mean you can't come back again and try for something else.

MR. TORLEY: Go talk to Mike and he can show you what you're allowed.

MR. LANGANKE: Let Mike handle it.

MR. DASKALIS: Just that the building like that should definitely have a sign on the highway.

MR. TORLEY: You can have a freestanding sign. Mike will tell you how big it can be and all that.

MR. DASKALIS: But the location where it is, if you are driving from either direction, you don't see it unless you are close to it and driving 40 miles an hour there's no time to turn left or right. That is why we're proposing a sign like this to the location and if I knew that I could not have a sign from the beginning, I would make my decision a little different in building the diner.

MR. NUNNELLY: They drive 50 miles an hour when they get to the place and they won't be stopping for that and Banta's Steak and Stein would ever stop there because of the sign.

MR. DASKALIS: Sign is the most important thing for a location.

MR. NUNNELLY: Did you see the Banta's Steak and Stein.

MR. NUGENT: You guys want to talk, you have to go out in the hallway because we have more business to attend to.

MR. DASKALIS: Thank you.

12/11/95 Public Hearing - HR&C/Positive

Name

Address

DAVE NUNNALLY

26 LINER RD

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

95-22

Date: 11/27/95

I. Applicant Information:

- (a) H.R. & C. of New York, Inc., 845 Union Avenue, New Windsor, N. Y. x
(Name, address and phone of Applicant) (Owner)
- (b) Positive Business Investment Group, 6 Rondack Rd., Middletown, N.Y.
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) Ecotech, Inc., P. O.Box 790, Carteret, N. J. 07008
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- (☐) Use Variance (☐) Sign Variance
- (☒) Area Variance (☐) Interpretation

III. Property Information:

- (a) C 845 Union Avenue, New Windsor, N.Y. 4-1-67 1.1 acres +
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? OLI/PI
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes.
- (d) When was property purchased by present owner? 7/31/84.
- (e) Has property been subdivided previously? Yes.
- (f) Has property been subject of variance previously? Yes.
If so, when? 1983.
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a

_____.

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____

_____.

(b) ^{n/a} The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application. n/a

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: n/a

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) ^{n/a} In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

n/a
 whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section <u>48-18H(1)</u> , <u>Table of</u> <u>Regss., Col.</u>			
Supplemental Sign Regulations & 48-18H(1) (b)			
	Requirements	Available	Variance Request
Sign 1 -Freestanding	<u>64 s.f.</u>	<u>304 s.f.</u>	<u>240 s.f.</u>
Sign 2 -Facade	<u>2.5 ft. x 10 in</u>	<u>7 ft. x 7 ft.</u>	<u>4.5 ft. x 0 in.</u>
Sign 3 -Facade	<u>2.5 ft. x 10 in.</u>	<u>4 ft. x 8.5 ft.</u>	<u>1.5 ft. x 0 in.</u>
Sign 4			
Sign #1-Height	<u>15 ft.</u>	<u>35 ft.</u>	<u>20 ft.</u>
(Freestanding)			

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

Applicant seeks 240 s.f. sign variance for free-standing sign which is proposed to stand 35 ft. in height in front portion of property. The proposed sign will be constructed of fluorescent neon as depicted in sketch attached hereto, and will be readerboard style. Applicant will be leasing the front portion of the property and is in the process of constructing a diner to be known as Johnny D's Diner on a 1.1 acre parcel. (continued on page 3A attached hereto)

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?
Total signage for Johnny D's Diner: 387 s.f.

VII. Interpretation. n/a

- (a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.
- (b) Describe in detail the proposal before the Board:
- _____
- _____
- _____
- _____
- _____

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(Continued from Page 3)

The signs proposed are comparable to other existing signs along Union Avenue, a major route of travel within the Town of New Windsor. For example, the total amount of signage on the Arnoff (Stewart Liner) Moving & Storage building is 380 s.f., Moroney's Cycle has a total of 218 s.f. of signage and Days Inn has 338 s.f. of signage. The signs proposed by Applicant will be unobtrusive and will not obscure or inhibit any sight visibility or cause traffic hazards.

Since this is a proposal for a newly constructed eating establishment within the town, it is necessary for the signs to be large enough in order for motorists traveling on Union Avenue at about 40 mph to be able to have an unobstructed view when passing over the crest of the hill from either direction.

It is the feeling of the Applicant that a desirable change would be produced in the character of the neighborhood and no detriment would be caused to the nearby properties in view of the fact that the parcel is zoned for commercial use.

Applicant has reviewed the sign regulations in the C zoning district and realizes that there is a limitation to the square footage which is allowed. Considering the signage proposal before the Board, applicant feels that he cannot achieve this without the benefit of the variance procedure and that there is no other method which is feasible to applicant other than the variance procedure.

Applicant is seeking sign variances for one freestanding sign and facade sign to be located in a commercial zone on a very busy highway in the Town of New Windsor. A tasteful sign such as the readerboard which is proposed can readily inform the motoring public as to the various specials available. Signs such as these are imperative for today's competitive market. Therefore, applicant feels that a sign variance request such as this is not substantial.

Applicant feels that the granting of the variances will not be detrimental to the health, safety or welfare of the neighborhood or community or have an adverse effect on the physical or environmental conditions since the property is zoned for commercial businesses of this type.

Applicant does not feel that this request constitutes a self-created hardship because applicant is in the process of obtaining all of the municipal approvals for the proposed structure.

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

(See attached sketches)

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☐ Copy of contract of sale, lease or franchise agreement.
- ☐ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: November 27, 1995

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

(Applicant)
(See attached Proxy by owner)

Sworn to before me this

____ day of _____, 19____.

XI. ZBA Action:

(a) Public Hearing date: _____.

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

PROXY AFFIDAVIT

SUBMISSION OF APPLICATION FOR VARIANCE # 95-22

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

HOWARD CHOE (H.R.&C OF NY), deposes and says:
I am the OWNER of a certain parcel of land within the TOWN OF NEW
WINDSOR designated as tax map SECTION 4 BLOCK 1
LOT 67. I HEREBY AUTHORIZE JOHN DASKALIS
of JOHNNY D'S DINER (company name) to make an
application before the ZONING BOARD OF APPEALS as described in
the within application.

Dated: June 8, 1995.

x *John Daskalis*
(Signature of Owner)

Sworn to before me this

9th day of June, 1995.

Patricia B. Dunn

Notary Public
PATRICIA B. DUNN
Notary Public, State of New York
Qualified in Orange County
Reg. No. 4914998
Commission Expires Dec. 21, 1995

(ZBA DISK#1-060895.PXY)

12'

Johnny D's



DINER

70'

$$10 \times 12 = 120$$

$$4 \times 8 = 32$$

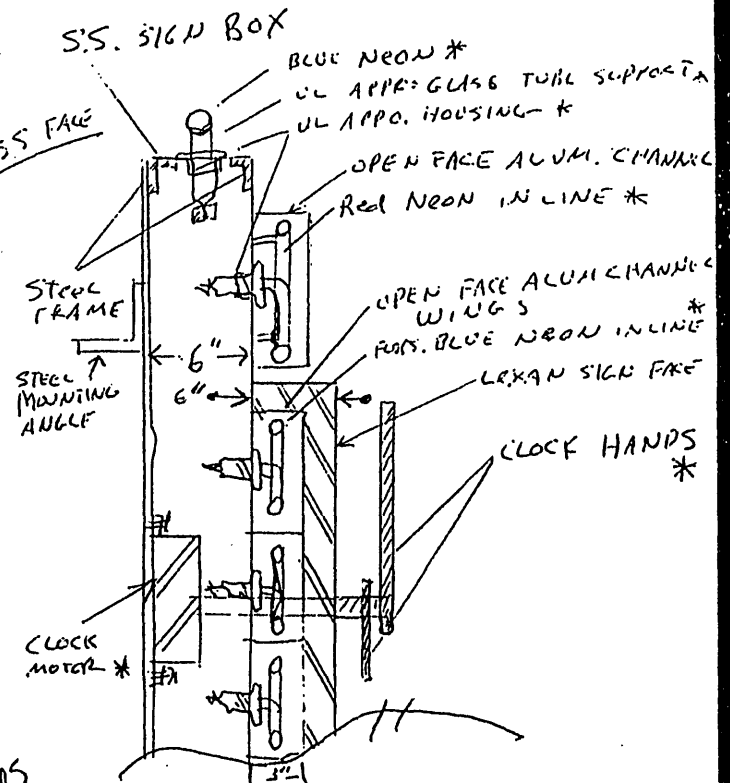
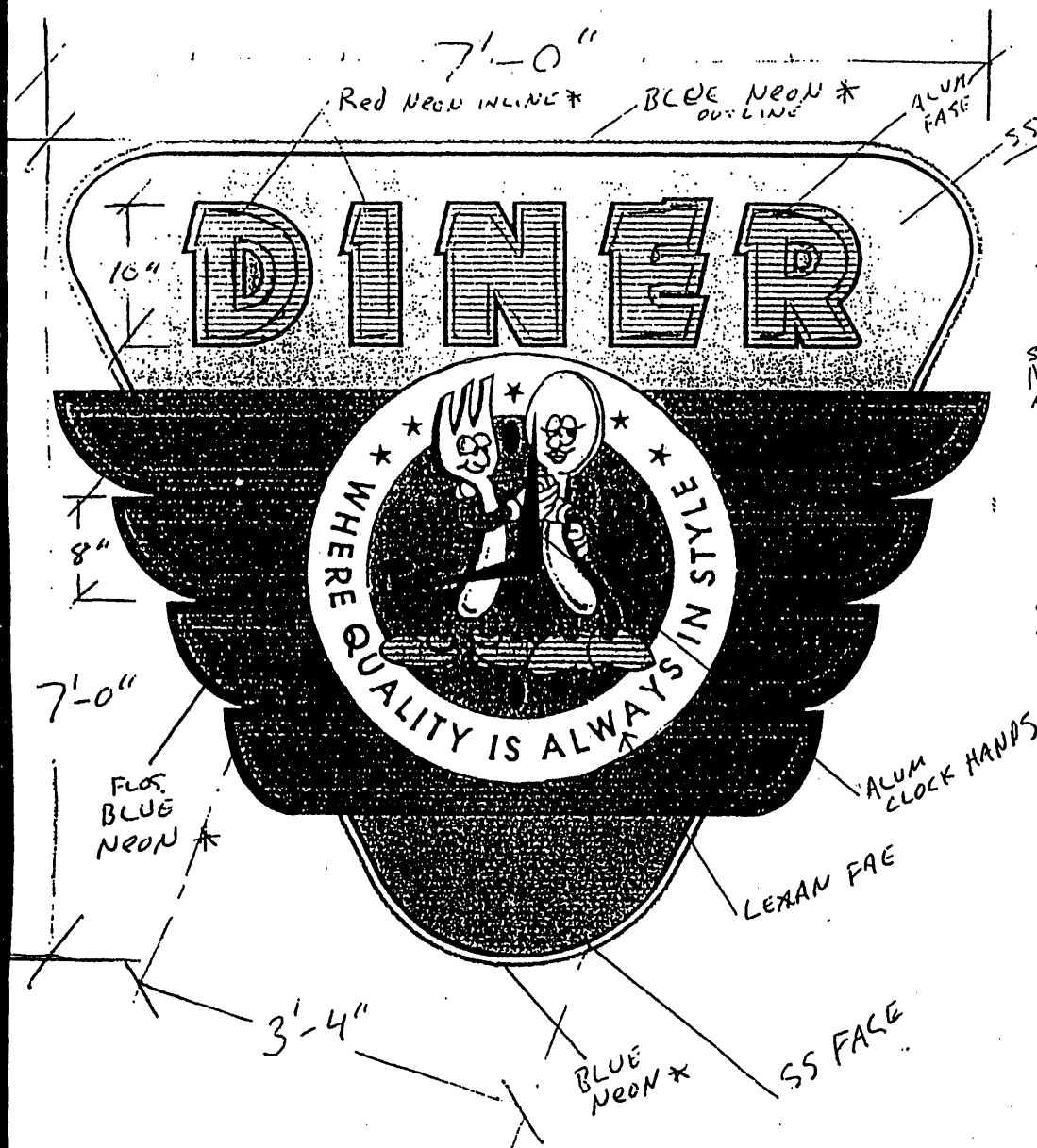
152

25 feet

4' x 8'

11 ft 10 in
ground
25 feet
bottom of sign

ROAD SIGN



Johnny D's DINER

ECOTECH INC.
PO BOX 790
CARTERET NJ 07008

FAX 1-908-636-1813 PHONE 1-908-636-1500

* ALL ELEC. TO Be IN COMPLIANCE WITH U.L. LISTINGS



Johnny D's

8'-6"

7'-0"

49 SQ/FT.

2'-0"

4'-0"

289 SQ/FT.

SIGN'S
TOTAL

338 SQ/FT.

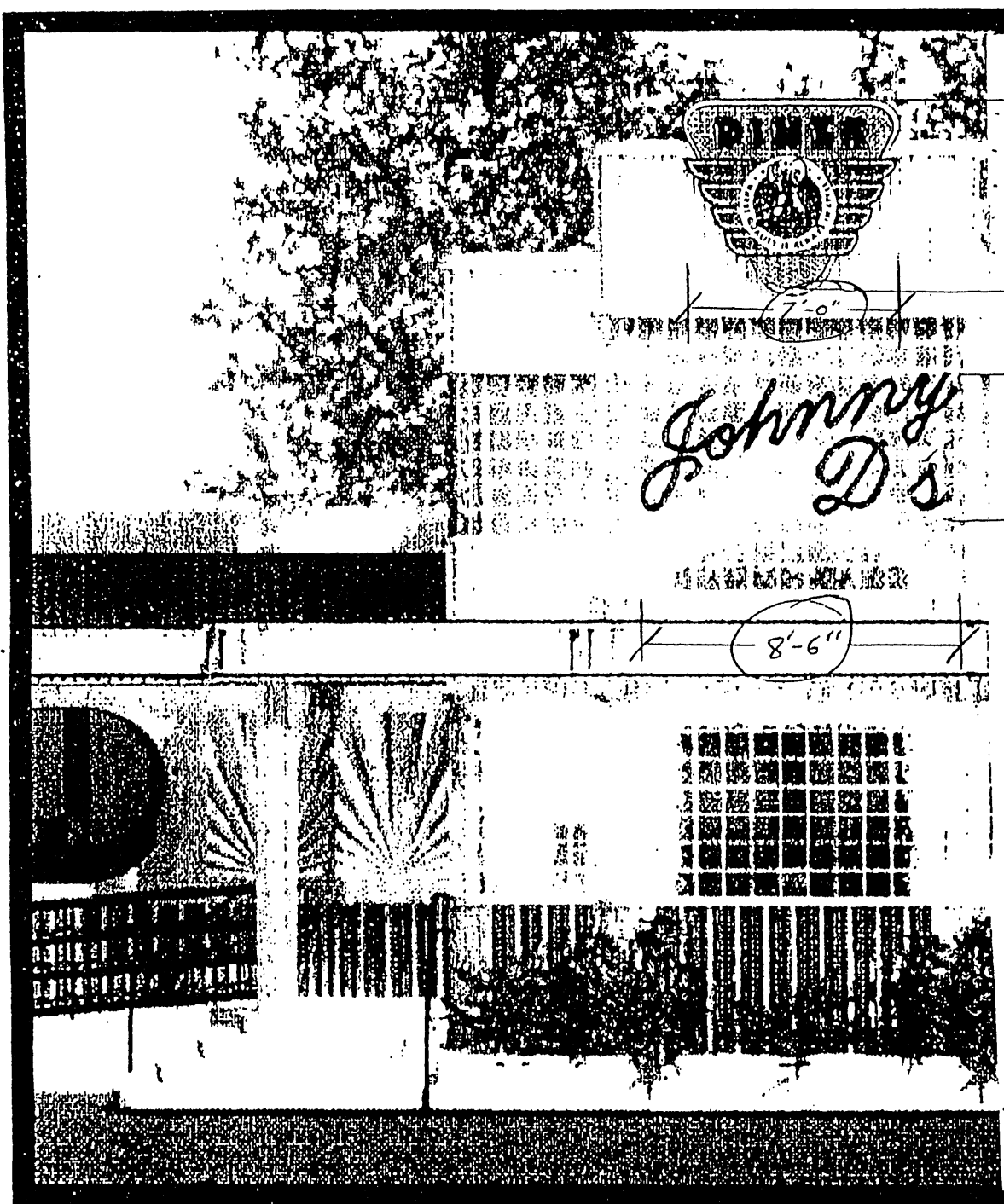
15'-0"



Johnny D's DINER

ECOTECH INC.
PO BOX 790
CARTERET NJ 07008
FAX 1-908-636-1813 PHONE 1-908-636-1500

**RETAKE
OF
PREVIOUS
DOCUMENT**



7'-0" 49 SQ/FT.

2'-0"

4'-0" 289 SQ/FT.

SIGN'S
TOTAL

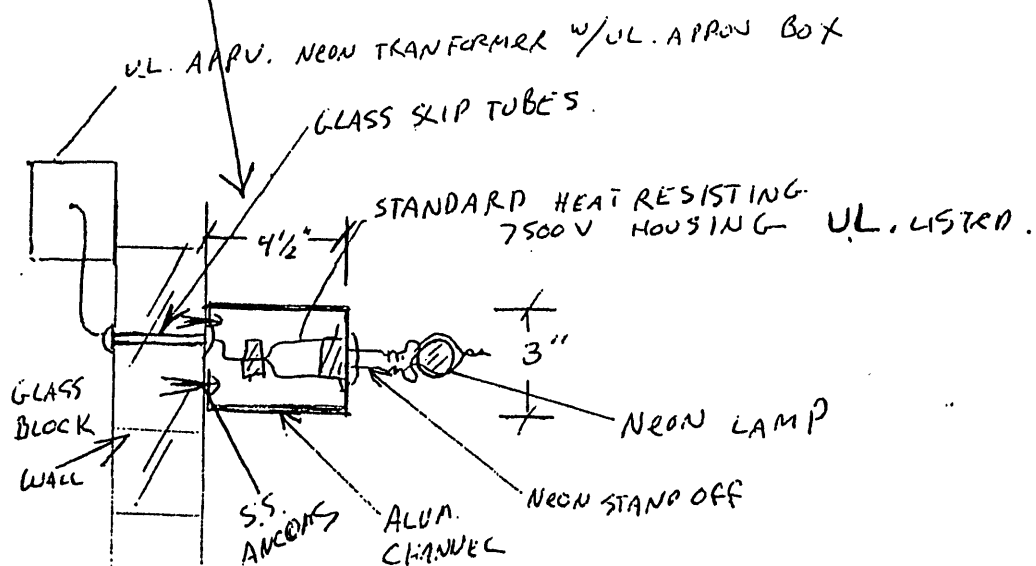
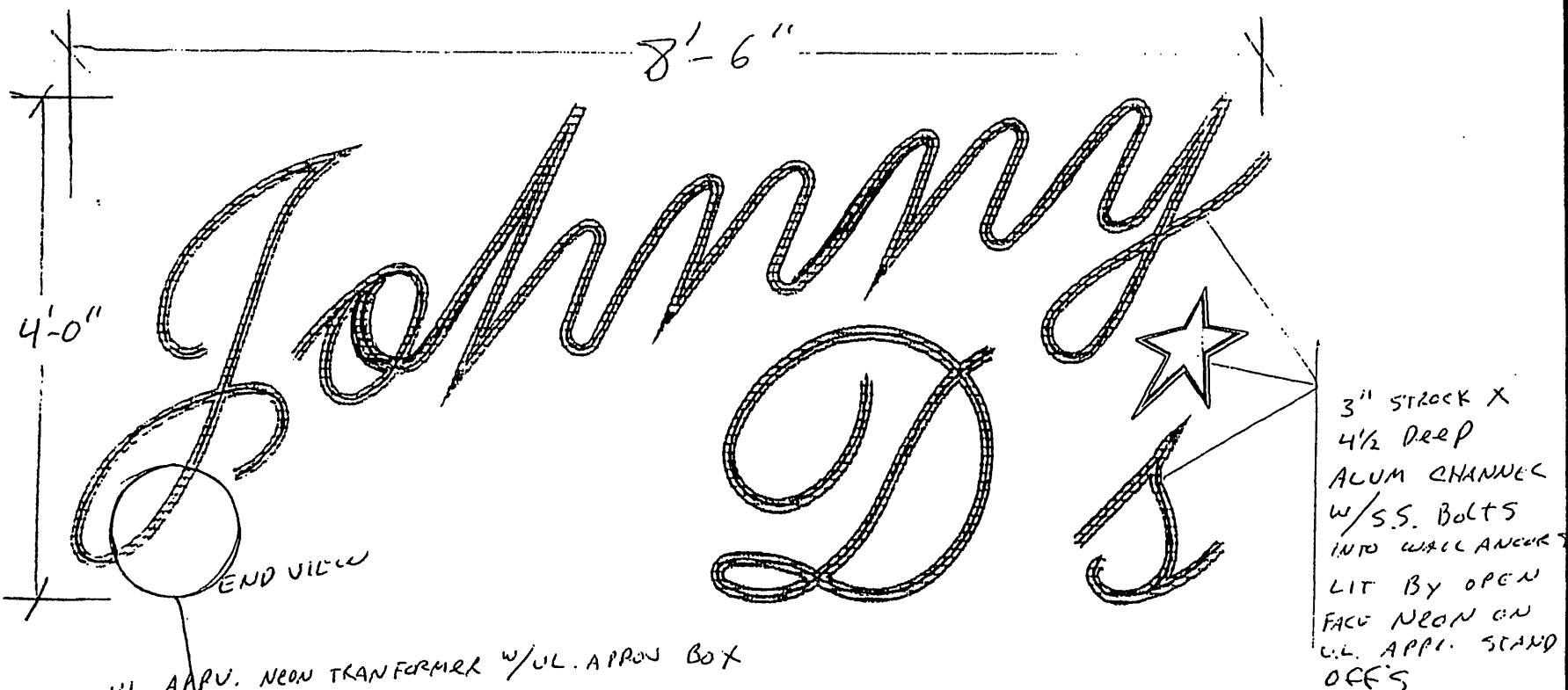
338 SQ/FT.

15'-0"



Johnny D's DINER

ECOTECH INC.
PO BOX 790
CARTERET NJ 07008
FAX 1-908-636-1813 PHONE 1-908-636-1500



Johnny D's DINER

ECOTECH INC.
PO BOX 790
CARTERET NJ 07008
FAX 1-908-636-1813 PHONE 1-908-636-1500

Date 12/4/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553TO Frances Roth 147 Sycamore Dr. DR.
New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
11/27/95		Zoning Board Meeting	75.00	
		Misc. - 1		
		HRAC - 10 27.00		
		Rosenbaum - 6		
		Taromanides - 3		
		Roberts - 4		
		Dori Associates - 9		
		Olson - 10		
		Schlesinger - 3		
		Johnson - 3		
		<u>45 pp</u>	<u>202.50</u>	
			277.50	

PRELIMINARY MEETING:

H.R. & C/POSITIVE BUSINESS INVESTMENT GROUP

Mr. John Daskalis appeared before the board for this proposal.

MR. NUGENT: Request for 240 square feet sign area and 20 ft. sign height for free-standing sign, plus 4.5 ft. x 9 ft. and 1.5 ft x 0 ft. variances for two wall signs for proposed "Johnny D's" diner to be located on front portion of 845 Union Avenue in a C zone.

MR. DASKALIS: This is the building we're proposing. As you go closer up, look closer up like this on top. And this is the top logo for the sign and this is the bottom.

MR. NUGENT: It's going to be right attached to the building?

MR. DASKALIS: The two signs and then we have the strip sign that is going to be looking.

MR. KANE: You were before this board previously?

MS. BARNHART: Around October of last year he was here.

MR. KANE: So it has been a year?

MS. BARNHART: He's also changed the content of the one of his signs.

MR. DASKALIS: Yeah, the building sign changed a little.

MR. NUGENT: That sign, if I remember correctly, is going to go on top of the sign that is there already?

MR. DASKALIS: Excuse me?

MR. NUGENT: The freestanding sign is going to go on top of the sign that is there already?

MR. DASKALIS: No, the hotel it will be moved and this

will be freestanding.

MR. KANE: You're going to move the hotel sign back?

MR. DASKALIS: Yes.

MR. DASKALIS: This top logo that was on the top of the building that was proposed last year will look like this and we're changing it to look like that.

MR. TORLEY: Mike, can you tell me how we get a 4.5 by zero variance?

MR. BABCOCK: Good question.

MR. NUGENT: That is the only building on that piece of property, right?

MR. DASKALIS: Yes.

MR. NUGENT: Where you are excavating right now?

MR. DASKALIS: Yes, sir.

MR. KANE: Would that be for the height and the width, Mike?

MR. BABCOCK: He's proposing two wall signs, number one sign is 7 foot by 7 foot, okay, Larry it's 7 foot by 7 foot, the law allows him to have a 2.5 which is 2 1/2 foot by 10 foot so he's 7 foot one way so he doesn't need any variance of the length of the sign, he needs a variance of the height of the sign so he needs 4 1/2 foot. It's confusing the way it's written there. The second sign is 4 foot high by 8 1/2 foot long, he doesn't need, it's allowed to be 10 foot long so he doesn't need the variance for the length, he needs a variance of 1.5 height.

MR. KANE: In regards to the height and the square footage of the sign are they approximately similar to the existing hotel sign that is out there at this time?

MR. DASKALIS: The height on the freestanding is the same, the same height.

MR. KANE: What about the square footage of the sign?

MR. DASKALIS: I'm not so sure.

MR. BABCOCK: The square footage is, he's allowed 64, he's proposing 304 so he needs a variance of 240.

MR. TORLEY: And 20 feet on the height.

MR. BABCOCK: He's allowed to go 15 foot high, he's proposing 35 feet so he needs 20 foot height variance.

MR. TORLEY: But that sign is going a way.

MR. DASKALIS: It's moving back.

MR. KANE: That sign is going to be moved back. I remember the area from last year, that sign is going back, they are going to move that back and the diner sign's going to be closer to the road where that one is now.

MR. TORLEY: Why does the diner sign have to be 35 feet high?

MR. KANE: If I remember the view people going so fast on that road.

MS. BARNHART: If you see the pictures, you'll see why.

MR. KANE: I remember it from last year.

MR. BABCOCK: Mr. Chairman, one thing I want to note for the board is that when we did the calculations on the square footage of the freestanding sign and also the square footage for the, all the signs, we squared 'em. If you notice the signs, they are not square at all. I mean, I'm sure that somebody could figure that square footage out where it says Johnny D's, we just took a square of that which was 4 foot by 8'6" so that is why the square footage is so high as far as the amount.

MR. KANE: Larry, did you follow that?

MR. TORLEY: Yes.

MR. NUGENT: In reality, it's really not that big.

MR. BABCOCK: No, it's not that big at all, just show him that picture right there.

MR. KANE: They squared it out.

MR. TORLEY: Which means it's about 30 percent less than the number.

MS. BARNHART: Yes.

MR. KANE: I remember distinctly from last year.

MR. BABCOCK: It's quite a bit less.

MR. NUGENT: That bottom part is that just going to be like daily specials?

MR. DASKALIS: Yes.

MR. TORLEY: You're counting the reader board as part of the sign area too?

MR. BABCOCK: That is correct.

MR. KANE: That is an illuminated sign from the inside?

MR. DASKALIS: This one, this will be stainless steel and this will be neon and this is neon.

MR. NUGENT: What's is speed limit on the road, 45?

MR. BABCOCK: Yes, that is correct.

MR. NUGENT: Any further questions?

MR. TORLEY: No, I would ask when you come in for the public hearing you make a good case for the height of the sign, not the area as much but it's a 20 foot higher sign than the code is allowed, a lot of variance, address that.

MR. KANE: Accept a motion?

MR. NUGENT: Yes.

MR. KANE: I move that we set up H.R. & C/Positive Business Investment Groups for a public hearing for this proposed variance at 845 Union Avenue.

MR. TORLEY: Second it.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. REIS	AYE
MR. NUGENT	AYE

MR. REIS: Can I make a point first? Johnny D, I'd suggest that if you can compute the size of the square footage the actual size of the square footage so we're not dealing in approximates.

MR. DASKALIS: On this one?

MR. REIS: Yes.

MR. NUGENT: They are really not going over the variance too much.

MR. BABCOCK: Mike, that is our normal way of doing it, just so you know, that is what we do, we just square it off. I just wanted to bring it to the board's attention that the sign is much smaller when you take the top where diner is, if you are asking for those calculations, I'm sure you have the right to do that.

MR. REIS: I just thought you're looking for less of a variance.

MR. BABCOCK: That is correct.

MR. TORLEY: But procedure has been to square it off.

November 27, 1995

7

MR. BABCOCK: That is correct.

MR. REIS: Okay, thank you.

MR. KRIEGER: If when you come back you'd address yourself to the criteria that are on that piece of paper, those are the criteria by which the board must decide according to law and it will be helpful if you address yourself to that. If you have either or both of your deed and title policy, I'd like to look at them, no need for me to keep them but I want to look at them.

MR. DASKALIS: Deed and title policy?

MR. KRIEGER: Yes.

MR. DASKALIS: Yes.

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

Page I of 2

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: NOVEMBER 9, 1995

APPLICANT: POSITIVE BUSINESS INVESTMENT GROUP CORP.
6 RONDACK ROAD
MIDDLETOWN, N.Y. 10940

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: NOVEMBER 8, 1995

FOR (BUILDING PERMIT): FREE STANDING SIGN

LOCATED AT: PROPOSED JOHNNY D'S DINER

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 4, BLOCK: 1, LOT: 67
VACANT LOT WITH OUTSTANDING B.P. #7583

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. SIGN EXCEEDS MAXIMUM SQUARE FOOTAGE ALLOWED
2. SIGN EXCEEDS MAXIMUM HEIGHT FROM TOP OF SIGN TO THE GROUND

Ernst Schmitt

BUILDING INSPECTOR

<u>PERMITTED</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
<u>ZONE C</u> <i>freestanding:</i>	<u>USE 48-18 H(1)</u>	
<u>SIGN #1</u> 64 SQ.FT.	304 SQ.FT.	240 SQ.FT.
<u>FREESTANDING</u>		
<u>HEIGHT</u> 15FT.	35FT.	20FT.

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF
APPEALS.

CC: Z.B.A., APPLICANT, B.P. FILE

RECEIVED NOV 0 8 1995

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

Name of Owner of Premises Positive Business Investment Group Corp.
Address 6 Rondack Rd., Middletown, N.Y. 10940 Phone 1-692-6317
Name of Architect _____
Address _____ Phone _____
Name of Contractor Ecotech Inc.

Address P.O. Box 710, Carteret, N.J. Phone 1-108-656-1200

State whether applicant is owner, lessee, agent, architect, engineer or builder

If applicant is a corporation, signature of duly authorized officer.

John Daskalis, Pres.

(Name and title of corporate officer)

1. On what street is property located? On the Union Ave. (Rt. 350) side of front portion of Days Inn
(N.S.E. or W.)
and feet from the intersection of
2. Zone or use district in which premises are situated C Is property a flood zone? Yes No
3. Tax Map description of property: Section 4 Block 1 Lot 67
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy b. Intended use and occupancy
5. Nature of work (check which applicable): New Building Addition Alteration Repair
Removal Demolition Other Signs? - Proposed Diner
6. Size of lot: Front Rear Depth Front Yard Rear Yard Side Yard
Is this a corner lot?
7. Dimensions of entire new construction: Front Rear Depth Height Number of stories
8. If dwelling, number of dwelling units Number of dwelling units on each floor
Number of bedrooms Baths Toilets
Heating Plant: Gas Oil Electric/Hot Air Hot Water
If Garage, number of cars
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use
10. Estimated cost Fee
(to be paid on this application)
11. School District

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
 Approved.....19.....
 Disapproved a/c.....
 Permit No.

Office Of Building Inspector
 Michael L. Babcock
 Town Hall, 555 Union Avenue
 New Windsor, New York 12550
 Telephone 565-8807

Refer -

Planning Board.....
 Highway.....
 Sewer.....
 Water.....
 Zoning Board of Appeals

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

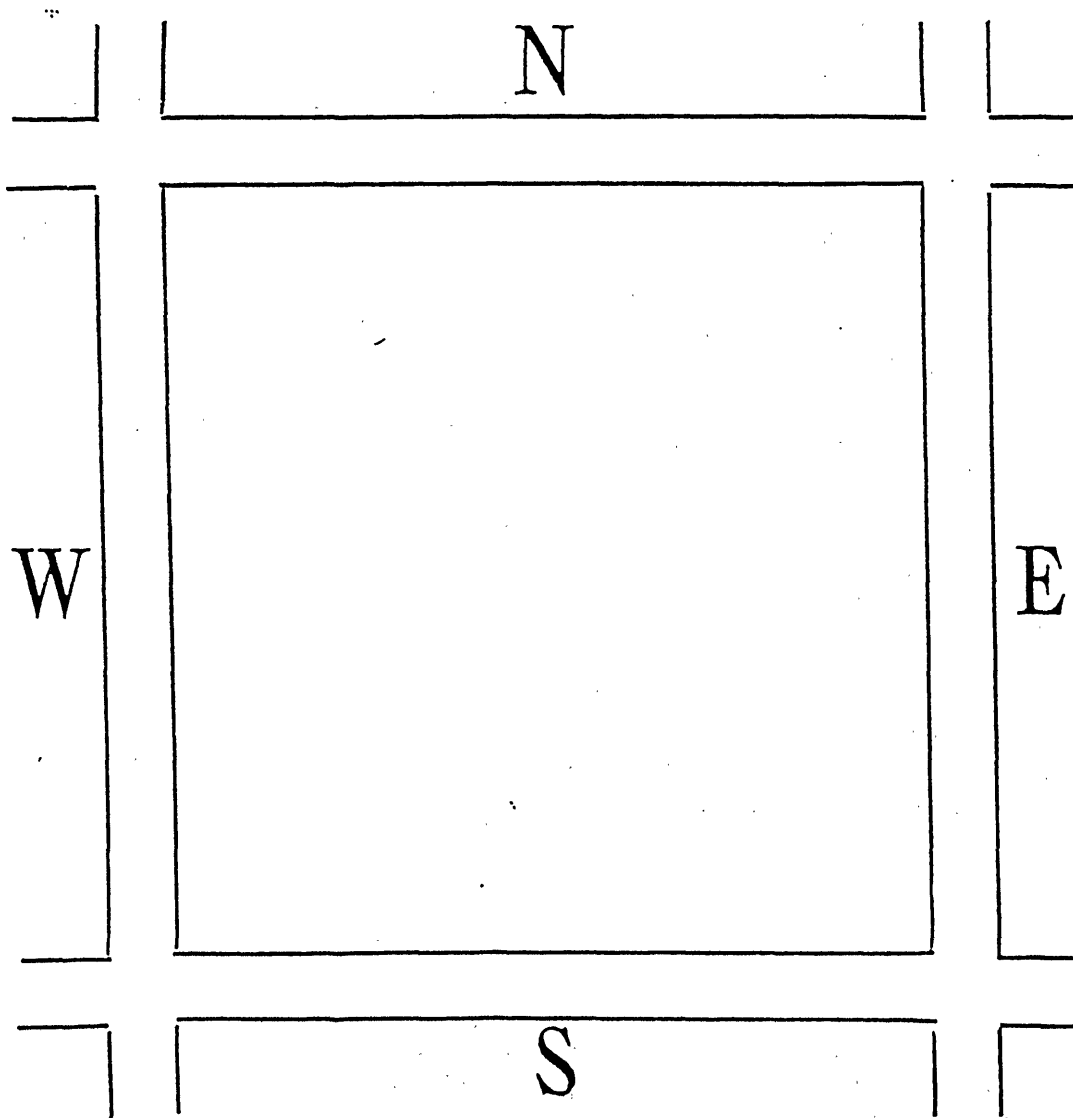
.....
 (Signature of Applicant)

.....
 (Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

Applicant must indicate the building line or lines clearly and distinctly on the drawings.



SECTION 3

12.2

254.1A(C)

City of Newburgh

LAKE WASHINGTON

10
52.9A(K)

11.2
3.1A

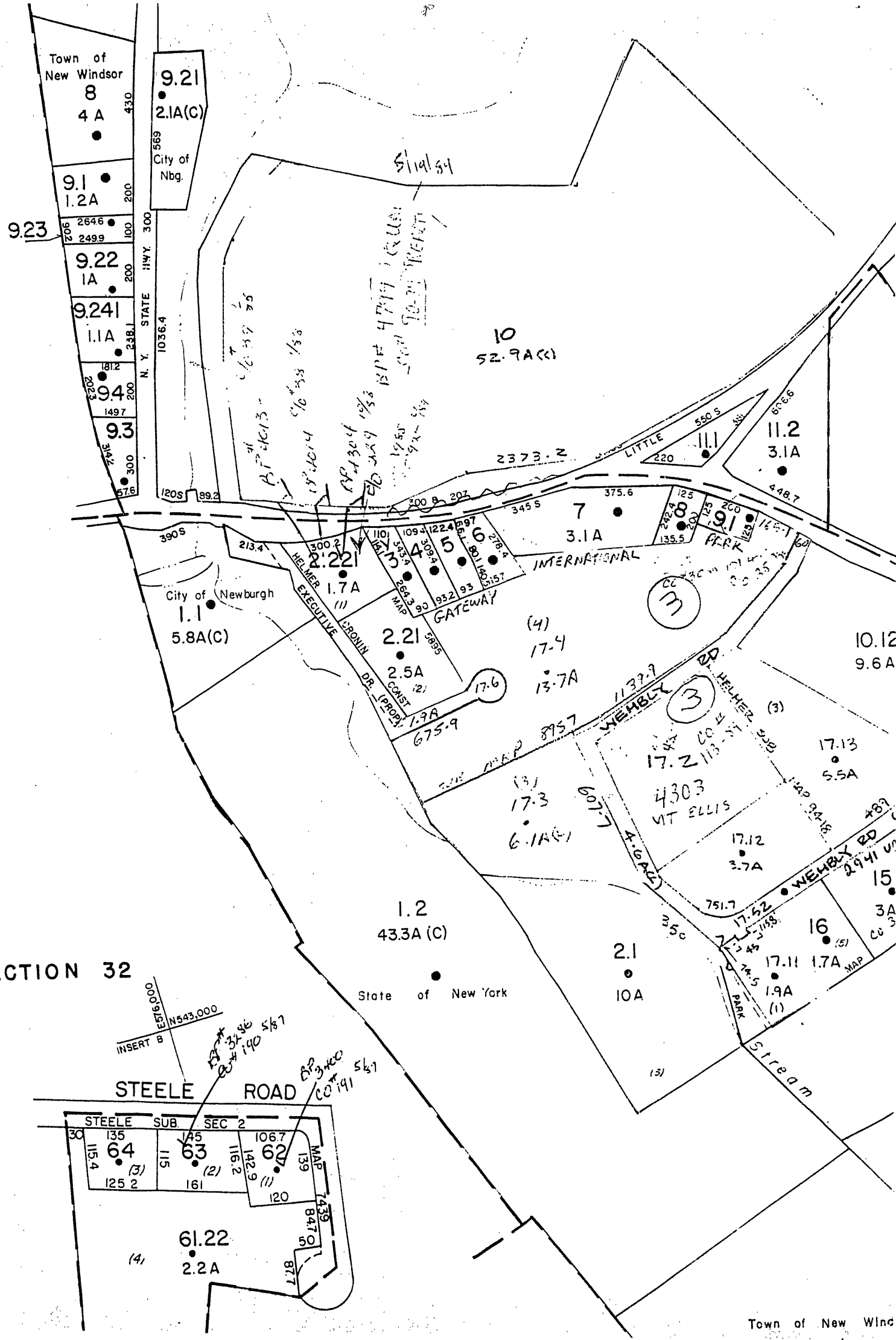
3.1 A

INTERNATIONAL

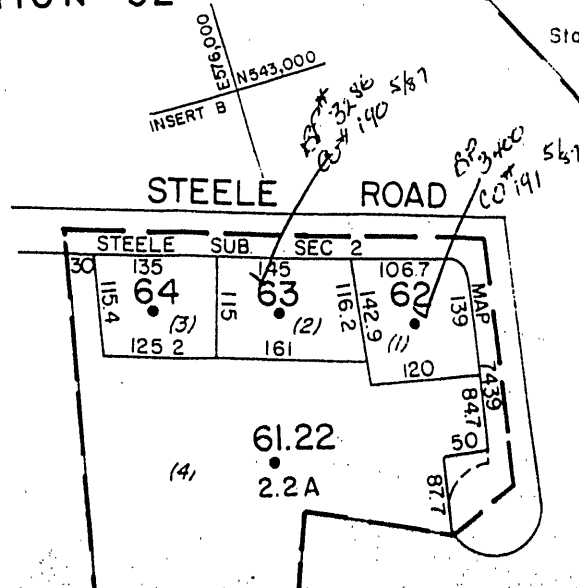
0/932/92
GATEWAY

(4.

SECTION 3



SECTION 32



On Dec. 6, 1995- Mike Arnoff called from Moving & Storage.

Very Happy about the

PUBLIC NOTICE OF HEARING BEFORE

application.

ZONING BOARD OF APPEALS

No Opposition -

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 22

Request of H.R. & C of New York, Inc. and Positive Business Investment Group

for a VARIANCE of the Zoning Local Law to permit:

the construction of free-standing and wall signs on proposed diner
said signs having more than the allowable sign area and height;

being a VARIANCE of Section 48-18H(1) & 48-18H(1)(b) of the
Supplemental Sign Regulations,

for property situated as follows:

front portion of 845 Union Avenue, New Windsor, New York 12553

known as tax lot Section 4 Block 1 Lot 67

SAID HEARING will take place on the 11th day of December,
19 95, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

ZONING BOARD OF APPEALS
Regular Session
December 11, 1995

AGENDA:

7:30 P.M. - ROLL CALL

Motion to accept minutes of the 10/23/95, 11/13/95 and 11/27/95 meeting as written.

CORRESPONDENCE FROM DENHOFF DEVELOPMENT - Request for further extension of variance granted 9/8/86. Present: Charles Beck.

PRELIMINARY MEETINGS:

1. ROTHSTEIN, ALBERT - Request for use variance to convert one-family to a two-family residence at 14 Garden Drive in an R-4 zone. Not permitted use. (47-1-51). *→ not P.H. 30 for 61.*

2. DIGERATU, MIRCEA - Request for 40 ft. rear yard and 240 s.f. minimim livable area to convert a two-car garage to residence. located at 241 Beattie Road in an R-1 zone. (51-1-83.12). *→ not 41.*

3. ~~ANGELO ROSMARINO ENTERPRISES/CETTA - Request for 60 ft. front yard setback for construction of awning at 420 Windsor Highway (Pat's Better Pizza) in C zone. Present: Larry Barbieri of MacMillan Awning. (69-2-10).~~ *Cancelled.*

PUBLIC HEARINGS:

4. RHODES, LINWOOD - Request for use variance to allow funeral home in R-4 zone and 17 off-street parking spaces at 161 Walsh Road. Present: Daniel J. Bloom, Esq. (13-5-29). *4-1-approved.*

5. H.R.&C/POSITIVE BUSINESS INVESTMENT GROUP - Request for 240 s.f. sign area and 20 ft. sign height for free-standing sign, plus 4.5 ft. x 0 ft. and 1.5 ft. x 0 ft. variances for two wall signs for proposed "Johnny D's" Diner to be located on front portion of 845 Union Avenue in a C zone. Present: John Daskalis. (4-1-67).

6. ROSENBAUM INDUSTRIES/STERN - Request for 10 off-street parking spaces, and possibly 7.2 ft. front yard, 19.8 ft. side yard and 24.6 ft. maximum building height for proposed medical/dental clinic at 389 Windsor Highway (formerly Rosenbaum's) in a C zone. Present: Nick Steyer of Cuomo Engineering. (65-2-16.1).

PAT - 563-4630 (O)
562-7107 (H)

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----X
In the Matter of Application for Variance of

HRC + Positive Business Investment Group

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

96-22

-----X
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On Nov. 28, 1995, I compared the 94 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
28th day of November, 1995.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)

required to install satisfactory identification indicating the house (or building) number and, as applicable, name of the occupant or the location. This requirement shall be deemed necessary for health, safety and general welfare should an emergency incident occur. Required signs shall comply with the applicable provisions of this Code and shall be subject to the guidelines of the Town Emergency 911 Coordinator.

- (2) All commercial parks and/or multifamily developments shall provide, where required by the Fire or Zoning Inspector, or as required by the Planning Board, a directory and directional sign intended to assist (guide) emergency response units to locations within the development. Such signs shall be subject to review of the Town Emergency 911 Coordinator and the Inspector and/or Board requiring the installation.
- (3) Required signs shall also be provided and conform to the specific requirements of § 21-6 of Chapter 21, Fire Prevention, of this Code.
- (4) Installation of required signs under this subsection shall be exempt from permitting requirements.

H. Permitted accessory signs.

- (1) Nonresidential Zoning Districts (AP, C, NC, OLI, PI, PO):

- (a) Freestanding signs.

- [1] For any nonresidential business site, permitted by right, by special permit or by variance, one (1) freestanding, indirectly illuminated sign supported by an ornamental post or base set in the ground behind the property line or sidewalk line so as to be free of pedestrian traffic, not obstruct sight distance or otherwise pose a hazard or be a nuisance.

- [2] Such sign shall not exceed sixty-four (64) square feet, total all faces, nor be more than fifteen (15) feet above ground level, measured from the top of the sign to the average ground level at the sign base.
- [3] Such sign shall not be illuminated in a manner so as to create a hazard or nuisance to traffic or adjoining properties.
- [4] If the site has two (2) main vehicular entrances, the Planning Board may approve, at its discretion, one (1) additional full-size freestanding sign at the second entrance, but in no case shall the signs be spaced closer than three hundred (300) feet (measured along the road frontage).

(b) Facade signs.

- [1] For any nonresidential business site, in addition to any permitted freestanding signs, one (1) sign for each permitted business may be located on the building facade, with the sign face not to exceed two and five-tenths (2.5) feet (height) and ten (10) feet (width).
- [2] If the building face (at the location where the facade sign is to be mounted) is greater than three hundred (300) feet from the street (property) line which it fronts, the maximum permitted height of the facade sign can be increased to three and five-tenths (3.5) feet.
- [3] If a permitted business or establishment has more than one (1) main building entrance, one (1) additional full-size facade sign will be permitted, but in no case shall the additional sign be located on the same building face as the other permitted sign.

SIDEYARD AND 23.45 FT. BUILDING HEIGHT WHICH WAS GRANTED ON 11/14/83
UNDER ZBA FILE #83-56.

4-1-9.1 GOLDIN, EDWARD LEON AREA VARIANCES GRANTED
WEST SIDE-UNION AVENUE/OLI ZONE AREA/SIDE YARD 7/20/70
CONST. OFFICE/PROF. BUILDING WIDTH #70-11

4-1-9.21 ZETA HOLDING CORP. USE/AREA/SIGN VARIANCES SPLIT DEC.
UNION AVENUE/RT. 300 #84-15 OLI 11/26/84
REQUEST FOR 72 FT. FRONT YARD; 2.41 ACRES AREA; 8 FT. HEIGHT AND
USE VARIANCES IN ORDER TO CONSTRUCT RESTAURANT AND HEALTH CLUB IN OLI
ZONE. DENIES SIGN PORTION OF APPLICATION. APPROVED BALANCE OF
REQUEST.

4-1-9.22 MORONEY, JAMES AREA/USE VARIANCES GRANTED
UNION AVE.(MORONEY'S CYCLE) #73-2 1/15/73
CONST. OF CYCLE SHOP/SALE & REPAIR

4-1-9.22 MORONEY, JAMES AREA VARIANCE GRANTED
813 UNION AVENUE #85-8 OLI 3/11/85

REQUEST FOR 2 FT. FRONT YARD, 35 FT./42 FT. SIDE YARD, 12 FT.
MAXIMUM BUILDING HEIGHT AND .06% FLOOR AREA RATIO IN ORDER TO ALLOW
CONSTRUCTION OF AN ADDITION TO MOTORCYCLE SHOP IN OLI ZONE.

4-1-9.22 MORONEY, JAMES AREA/SIGN VARIANCES GRANTED
813 UNION AVENUE C ZONE #93-41 10/25/93

REQUEST FOR 26 FT. SIDE YARD, 44 FT. TOTAL SIDE YARD, 15.75
MAXIMUM BUILDING HEIGHT, 36 PARKING SPACES, 60 S.F. SIGN AREA FOR
FREESTANDING SIGN, 98 S.F. SIGN AREA FOR WALL SIGN, ONE FREESTANDING
SIGN TO ALLOW A TOTAL OF TWO FREESTANDING SIGNS IN A ZONE WHERE ONLY
ONE FREESTANDING SIGN IS PERMITTED, AND FIVE WALL SIGNS TO ALLOW A
TOTAL OF SIX WALL SIGNS IN A ZONE WHERE ONLY ONE WALL SIGN IS
PERMITTED IN ORDER TO CONSTRUCT TWO ADDITIONS TO MORONEY'S CYCLE SHOP
AT THE 813 UNION AVENUE LOCATION IN A C ZONE.

4-1-9.242 MOBIL OIL CORP. VARIANCE GRANTED
RT. 207/UNION AVENUE #72-11 5/19/72
CONDITIONAL USE-CONST. OF AUTO.SERVICE STATION

4-1-9.4 GARCIA, ALFOLFO/FENELON AREA VARIANCES GRANTED
REQUEST FOR AREA VARIANCES FOR CONST. OF BUILDING 8/11/75
FOR DISTRIBUTION OF WELDING SUPPLIES, COMPRESSED GASES, MEDICAL
SUPPLIES AND OFFICE SPACE FOR RENTAL ON SECOND FLOOR FOR LOCATION ON
UNION AVENUE.

4-1-9.4 FENELON PROPERTIES SIGN VARIANCE GRANTED
AGL WELDING OLI ZONE 9/22/75
REQUEST FOR 116 S.F. SIGN AREA VARIANCE.

4-1-11.1 PIZZO, JOHN USE/AREA/SIGN VARIANCES DENIED
ROUTE 300/207 #89-47 R-4 ZONE 10/23/89
REQUEST FOR USE VARIANCE FOR CONSTRUCTION OF PROFESSIONAL OFFICE
BUILDING WITH 8,800 S.F. FLOOR AREA; VARIANCE FOR 20 FT. FRONT YARD
VARIANCE; 50% DEVELOPMENTAL COVERAGE; MORE THAN THE ALLOWABLE PARKING
SPACES BY 45; AND 21 S.F. SIGN AREA VARIANCE FOR FREE-STANDING SIGN.
#93-4 - P O ZONE - REQUEST FOR 20 FT. DEVELOPMENTAL COVERAGE AND
39 S.F. SIGN AREA VARIANCE FOR FREESTANDING SIGN IN ORDER TO CONSTRUCT
A PROFESSIONAL OFFICE ON A TRIANGULAR SHAPED PARCEL IN A PO ZONE
(FORMERLY R-4). UNDER ZBA FILE #89-47 APPLICANT WAS DENIED A VARIANCE
FOR USE VARIANCE TO ALLOW PROFESSIONAL OFFICE BUILDING IN AN R-4 ZONE

AFTER A PUBLIC HEARING WHICH WAS HELD ON 10/23/89. APPLICANT THEREAFTER PETITIONED THE TOWN BOARD FOR A ZONE CHANGE FROM R-4 TO PO AND WAS GRANTED SAME ON JULY 16, 1992.

4-1-11.2 SMITH/BRADY/HARRIS USE VARIANCE GRANTED
INTERSECTION TEMPLE HILL RD/RT. 207 #82-9 R-4 ZONE 11/8/82
REQUEST TO CONSTRUCT BUILDING TO HOUSE OFFICE AND LIGHT
INDUSTRIAL USE IN R-4 ZONE.

4-1-12.12 DIPLOMAT MOTOR LODGE USE VARIANCE GRANTED
UNION AVENUE #72-9 5/1/72
PROPOSAL FOR RESTAURANT AND MOTEL

4-1-12.12 DIPLOMAT MOTOR LODGE VARIANCE - SIGN GRANTED
845 UNION AVENUE #77-27 OLI ZONE 9/26/77
REQUEST FOR 150 S.F. VARIANCE FOR FREE-STANDING DOUBLE-FACED SIGN
AND 40 S.F. SIGN VARIANCE FOR BUILDING SIGN.

4-1-12.11 DIPLOMAT ASSOCIATES/BANTA FOOD CO. USE VARIANCE GRANTED
REQUEST FOR EXTENSION OF NON-CONFORMING USE, A RESTAURANT,
IN AN OLI ZONE.

4-1-12.12 TUNG, P. S. INC. SIGN VARIANCE GRANTED
DIPLOMAT MOTOR LODGE RESTAURANT #83-16 OLI 5/09/83
REQUEST FOR 318 S.F. SIGN AREA VARIANCE FOR MOTOR LODGE; SIGN TO
DEPICT ADDED POOL, SAUNA AND RESTAURANT AT MOTEL COMPLEX AT 845 UNION
AVENUE.

4-1-14 BURGESS, CLIFF & OLIVE USE VARIANCE GRANTED
412 LITTLE BRITAIN RD. #82-16 12/13/82
REQUEST FOR USE VARIANCE FOR CONSTRUCTION OF AN ADDITION TO
RESIDENCE WHICH WILL BE A SECOND APARTMENT IN R-4 ZONE.

4-1-22 PIETRZAK ENTERPRISES AREA VARIANCES GRANTED
24&33 LITTLE BRITAIN ROAD #72-2 LOT/SETBACK/SIDEYD 2/17/72
PURCHASER DESIRES TO CONST. OFFICE/PROF. BLDG. UPON
SUBDIVISION OF ONE PARCEL INTO THREE.

4-1-24/25 CVC CAPITAL/ADVANCE BROADCASTING AREA VARIANCE GRANTED
429 LITTLE BRITAIN ROAD PI ZONE #89-26 10/23/89
REQUEST FOR 35 FT. HEIGHT VARIANCE TO ALLOW CONSTRUCTION OF RADIO
RELAY TOWER AT 429 LITTLE BRITAIN ROAD IN PI ZONE (CONSTRUCTION OF 80
FT. RADIO RELAY TOWER).

4-1-24 VANACORE, DE BENEDICTUS, DI GIOVANNI SPEC.PERMIT GRANTED
& WEDDELL #86-3 PI ZONE 02/10/86
REQUEST TO LOCATE TEMPORARY OFFICE TRAILER TO REAR OF EXISTING
OPERATION IN A PI ZONE LOCATED AT 429 LITTLE BRITAIN ROAD, SAID USE
NOT TO EXCEED SIX (6) MONTHS FROM THE DATE OF FORMAL DECISION.

4-1-32.21 LANGANKE, HERBERT USE/AREA VARIANCE GRANTED
26 STEELE ROAD #85-48 PI ZONE 1/27/86
REQUEST FOR USE VARIANCE TO CONSTRUCT SINGLE-FAMILY RESIDENCE IN
PI ZONE. ALSO, 20 FT. REAR YARD VARIANCE IS REQUIRED FOR PI ZONE.

4-1-33 PIETRZAK, ELAINE AREA VARIANCE GRANTED
7 STEELE ROAD #83-15 PI ZONE 5/23/83
REQUEST FOR 30 FT. FRONT YARD VARIANCE FOR EXISTING BUILDING
LOCATED ON STEELE ROAD IN A PI ZONE.

Date 11/8/94, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr. DR.
New Windsor Ny 12553

DATE			CLAIMED	ALLOWED
10/24/94	Zoning Board		75.00	
	Misc - 2			
	Daskalis - 8	(36.00)		
	Metromedra - 9	40.50		
	Fioritti - 7			
	I.D.C - 13			
	Inaganti - 5		198.00	
	<u>44</u>		<u>273.00</u>	

DASKALIS, JOHN

MR. NUGENT: Request for 264 s.f. sign area, and 20 ft. sign height ^{variance} variance for freestanding sign and 5 ft. sign setback for Johnny D's Diner which will be located on Union Avenue in front of Days Inn in C zone.

Mr. John Daskalis appeared before the board for this proposal.

MR. DASKALIS: This is what we're proposing to put on the building.

MR. NUGENT: On the building?

MR. DASKALIS: On the building and this is on the highway.

MR. NUGENT: Where is this, on 9W?

MR. BABCOCK: Union Avenue, just this side of Steak and Stein.

MR. TORLEY: How tall is the sign?

MR. DASKALIS: We'd like it 35 feet from the ground.

MR. NUGENT: What's allowed, 15, Mike?

MR. BABCOCK: Yes, he's allowed 15 foot height, he wants to have 35 so he needs a 20 foot variance.

MR. TORLEY: Why such a tall sign?

MR. DASKALIS: One reason is the traffic on the highway is very fast and the business we always have special priced items on the board here and when the traffic is too fast, if the sign is little, people cannot read it and the hotel has got approximately 40 foot sign and we're right next to him and we'd like to be the same size to have a proper impact. Another reason is driving down out from New Windsor coming to Newburgh, unless and because the property is down, it drops, you cannot see the sign from 5, 600 feet away. You'd have to go close to a hundred feet and by that time, the

traffic is so fast, you just missed it. If you noticed the hotel sign it's 35 foot high and still when you're driving in and you're far away, like three or four hundred feet you can only see the logo on the top. That is the biggest reason we'd like it that high. Cause we're spending a lot of money and we'd like to have the proper signage.

MR. NUGENT: This is, I'm looking at this, this is a brand new building, it's not there yet?

MR. DASKALIS: Not there yet.

MR. NUGENT: But the sign that is going to be put up is right next to the one now?

MR. DASKALIS: It will be staggered.

MR. LANGANKE: What's the setback that is allowed?

MR. NUGENT: What does he need for the setback, Mike?

MR. BABCOCK: He needs 15 feet. He wants to be ten foot so he needs 5 foot variance.

MR. NUGENT: It's going to be five foot closer to the road.

MR. BABCOCK: That is correct, he's supposed to be 15 feet from any property line so he is being ten foot from the property line.

MR. LANGANKE: What about the new guidelines?

MR. BABCOCK: There will be no requirement of the setback anywhere on the property. Basically we have to look at it to make sure that it is not going to, it's not hanging over the sidewalk and whatever.

MR. LANGANKE: How about the new guidelines on the height?

MR. BABCOCK: I don't have that Herb and I don't know what that is, the height. The size for the freestanding is going to increase to 64 square feet.

MR. KANE: How about the sign on Days Inn, is that a legal sign at this time?

MR. BABCOCK: I'm trying to.

MR. LANGANKE: Because we're trying to make this one comparable to the Days Inn now, is that a legal sign?

MR. TORLEY: We did one for Econo Lodge, I don't remember one for Days Inn. We might have, we did something for one of the motels, I don't know if it is a sign.

MR. DASKALIS: About the Days Inn sign at the time when it's set up we got the proper permit.

MR. NUGENT: That is what we were asking.

MR. TORLEY: We couldn't remember.

MR. DASKALIS: So on the restaurant side we had to move to the other side on Steak and Stein side. You might have to go a little bit over.

MR. TORLEY: Yours will be further back from the road?

MR. CHO: Yes, so you see, I have a big building so people can see it but this restaurant, you know, it's a small portion and you pass so fast.

MR. NUGENT: It's going to be in a hole.

MR. CHO: Yes.

MR. KANE: On the 260 square foot sign area, is that for this sign and the sign that is on the building is going to conform, Mike, does the sign on the building conform or is that 264 for both sides?

MR. BABCOCK: No, it's freestanding, the wall sign he's allowed 80 square feet and he's proposing 17.5 square feet.

MR. NUGENT: So he is okay.

MR. KANE: So we're just really dealing with the freestanding sign.

MR. NUGENT: Depends on the square footage of the building, doesn't it?

MR. BABCOCK: Yes.

MR. KANE: So we're not dealing with this sign at all.

MR. NUGENT: No.

MR. KANE: We don't need that then.

MR. TORLEY: I think we've got enough to go to a public hearing.

MR. NUGENT: I just want to let Mike finish up.

MR. BABCOCK: Shall not exceed 80 square foot total, it's 7 1/2 total of the sign and will not exceed 80 square feet. So he is asking for a total of 80 square feet.

MR. NUGENT: He's okay on that one.

MR. BABCOCK: Yes, he's only providing 17.5.

MR. KANE: So the building sign is fine.

MR. NUGENT: Just the freestanding one then. As you know, we like to keep our variances as close as possible to what the regulations require. Now what you're asking for is you're allowed 40 and you're asking for 304 and that is quite a bit larger now you're taking into consideration both sides, right?

MR. DASKALIS: Yes.

MR. NUGENT: Okay.

MR. TORLEY: That will be the only sign out front there, no portable signs?

MR. DASKALIS: That is it.

MR. NUGENT: You're going to have a reader board?

MR. TORLEY: Nothing else?

MR. DASKALIS: Nothing else.

MR. LANGANKE: Did you get a price on this sign yet?

MR. DASKALIS: No but should be around \$15,000, this is an approximate.

MR. TORLEY: Internally lit?

MR. DASKALIS: This will be neon, this will be fluorescent neon.

MR. TORLEY: Not rotating, no flashing?

MR. DASKALIS: No.

MR. LANGANKE: Question I have is the investment that this man is making in this sign, the project that they have going now between the Town of New Windsor, Town of Newburgh, this is an approach to the airport, which is, how is this going to effect him if they decide to go forward with that study and have the consultants come in and you draw up guidelines, will it effect this man's investment in any way? We're talking a lot of money here, will it be grandfathered in?

MR. TORLEY: I think you'd have to.

MR. NUGENT: I don't think it's going to be out of character in that particular neighborhood because the Days Inn sign is already up there, you know, it's not going to really stand out by itself, in other words, and I think that Steak and Stein has got to be close to that other man down the corridor coming to the airport, it's very dark so if they brighten it up. It's going to be very beneficial.

MR. KRIEGER: If the sign were in existence and the town would have to change it, they'd have to compensate

him for the sign, they couldn't just say kiss off the money. If the sign were not in existence at the time the ordinance was passed regulating it, that would be a different matter.

MR. KANE: So if anybody has a sign up at this time that is not legal and they do.

MR. KRIEGER: Then you're in trouble. If it is not legal then they are in trouble. If they have a sign up legally whether by variance or by statute, then it's like anything else.

MR. LANGANKE: What you're doing is protecting your investment.

MR. KRIEGER: The municipality can't take something that belongs to somebody else without compensation. Opinions may vary on that but the theory is--

MR. TORLEY: I agree with the Chairman, I would certainly like to satisfy, this is a substantial variance that you are requesting. Make very sure that you absolutely need this much. Are you very sure? You can save that for the public hearing.

MR. NUGENT: The other thing I'd do is find out what size the existing sign that is there as a comparison.

MR. DASKALIS: I think if it measured to exact that sign would be wider than this one.

MR. NUGENT: That is what we want to know when you come back for the public hearing also pictures, bring pictures in to show it.

MR. KANE: And the site plan to show us where you are going to want the sign.

MR. KRIEGER: Perhaps Mr. Daskalis isn't familiar when you say the public hearing. By law of the Zoning Board of Appeals can only decide matters after they hold a public hearing. They must hold a public hearing on every single application. That is why the chairman is talking about a public hearing so the purpose of the

this is preliminary to advise the Zoning Board members what you want and what to expect and to help you get ready for the public hearing but that is yes, saying it's not discretionary, it's mandatory.

MR. NUGENT: Here's an outline of everything you're going to need for the public hearing. When you get your paperwork completed, bring it back and give it to Pat, the secretary, and she'll set you up for the public hearing.

MR. KRIEGER: In addition to which, if you will address yourself to the criteria that is specified here, take that with you, those are the criteria on which the Zoning Board must by law decide the application. So if you would address yourself to those. Do you have in you possession either your deed or title policy?

MR. DASKALIS: Deed to the property.

MR. KRIEGER: Or title insurance.

MR. CHO: As of now, I'm the landlord so they are in the financial thing.

MR. KRIEGER: Contract vendee but they have not purchased the property.

MR. TORLEY: They are going to lease it from you, you're going to be the owner?

MR. CHO: Yes.

MR. TORLEY: Does he have to have a proxy?

MR. KRIEGER: Yes, if you are going to lease the land and not buy the land then yes, we'll need a proxy on file.

MR. TORLEY: Or he can be here.

MR. KRIEGER: Yes, with you, if he's here, his name or the application ought to reflect the owner's name.

MR. CHO: If you cannot allow the larger space, can you

allow him higher, you know, sign can go up higher?

MR. NUGENT: He has to tell us what he wants, he has to tell us what he wants.

MR. DASKALIS: We'd like to go the way it is.

MR. KRIEGER: The Zoning Board of Appeals by law is limited to the request that is made. In this case, there are, with respect to that sign, two different requests but the Zoning Board of Appeals cannot grant a greater variance than that which he asks for. So it is up to him to ask for enough. So if they didn't grant him the size they can't add to his request for height, that is the maximum of what he requested.

MR. DASKALIS: So you need the proxy or Mr. Cho has to be here.

MR. KRIEGER: You definitely need his name on the application. If it is, you check with the secretary, as long as it's there by the time of the public hearing.

MR. TORLEY: I move we set Mr. Daskalis up for a public hearing.

MR. KANE: Second it.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE